

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|-------------------------------|---|---------------------|
| CENTILLION DATA SYSTEMS, LLC, |) | |
| a Delaware corporation, |) | |
| |) | |
| Plaintiff, |) | |
| |) | C. A. No. 05-712 |
| v. |) | |
| |) | JURY TRIAL DEMANDED |
| AVOLENT, INC., |) | |
| a Delaware corporation, |) | |
| |) | |
| Defendant. |) | |

**AVOLENT INC.'S MOTION TO STAY ACTION PENDING
REEXAMINATION OF THE '270 PATENT**

Defendant, Avolent Inc. ("Avolent"), respectfully moves to stay this proceeding pending reexamination of the patent-in-suit, U.S. Patent No. 5,287,270 (the "'270 Patent"), by the United States Patent and Trademark Office.¹ A third party has requested an *ex parte* reexamination of the '270 Patent, on May 5, 2005, based on new prior art not previously before the Patent Office. On June 26, 2005, the Patent Office granted the request for reexamination stating that a substantial new question of patentability affecting the claims was raised by the request for *ex parte* reexamination. The Reexamination encompasses all three independent claims of the '270 patent, including claim 1, which plaintiff has identified to Avolent as the basis for its claim of infringement. The reexamination will therefore directly affect the validity, claim scope, and/or claim construction of the claims of the '270 Patent and the defenses available to Avolent in this matter. Avolent therefore makes this motion in order to avoid prejudice that might result to it if it is required to litigate these questions before the Patent Office's reexamination is complete and in order to conserve judicial resources.

¹ Counsel for Avolent conferred with counsel for Centillion regarding the relief requested in this motion. Centillion would not agree to the requested stay.

Respectfully Submitted,

POTTER ANDERSON & CORROON LLP

OF COUNSEL:

A. James Isbester
Gillian W. Thackray
ISBESTER & ASSOCIATES
3160 College Avenue, Suite 203
Berkeley, CA 94705
Telephone: (510) 655-3014
Facsimile: (510) 655-3614

Dated: November 8, 2005
706624 / 29651

By: /s/ David E. Moore

Richard L. Horwitz (#2246)
David E. Moore (#3983)
Hercules Plaza, 6th Floor
1313 N. Market Street
P.O. Box 951
Wilmington, DE 19899-0951
Tel.: (302) 984-6000
rhorwitz@potteranderson.com
dmoore@potteranderson.com

Attorneys for Defendant Avolent, Inc.

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CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on November 8, 2005, the attached document was hand-delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

Neal C. Belgam
Dale R. Dubé
Blank Rome LLP
1201 Market Street, Suite 800
Wilmington, DE 19801

I hereby certify that on November 8, 2005, I have Federal Expressed the documents to the following non-registered participants:

Grant S. Palmer
Blank Rome LLP
One Logan Square
Philadelphia, PA 19103-6299

Michael C. Greenbaum
Joel R. Wolfson
Denise Lane-White
Blank Rome LLP
600 New Hampshire Avenue, NW
Washington, DC 20037

By: /s/ David E. Moore
Richard L. Horwitz (#2246)
David E. Moore (#3983)
Potter Anderson & Corroon LLP
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, DE 19899-0951
(302) 984-6000
rhowitz@potteranderson.com
dmoore@potteranderson.com